

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1101

Citations Affected: IC 3-5; IC 3-6; IC 3-7; IC 3-8; IC 3-9; IC 3-11; IC 3-11.5; IC 3-11.7; IC 3-12; IC 3-14; IC 36-1-8.

Synopsis: Various election law changes. Proposed conference committee report for EHB 1101. Makes the following changes to election law: (1) Requires the election commission to formulate a statement of a "voter's bill of rights". (2) Permits certain voters whose registration is in question to cast a provisional ballot. (3) Permits any voter to cast an absentee ballot in the office of the circuit court clerk or satellite offices. (4) Permits military and overseas voters to submit absentee ballots by fax under certain circumstances. (5) Expands the definition of absent uniformed services voter to include a member of the Indiana national guard deployed outside Indiana. (6) Makes other changes relating to casting absentee ballots. (7) Removes language that permits the use of noncompliant voting systems under certain circumstances. (8) Provides for the use of voting systems that furnish a practical and effective means for voters with disabilities to cast ballots in private. (9) Requires that if a voting system is able to demonstrate to the voter whether the voter's ballot has overvotes, that function of the voting equipment actually in use in a precinct must be operable. (10) Permits a county election board to eliminate certain precinct election offices and to allow individuals between 16 and 18 to serve as poll clerks and election sheriffs under certain circumstances. (11) Establishes the time that electronic filing of certain campaign finance reports is considered to have occurred. (12) Changes the total number of signatures that a candidate for President of the United States, United States Senator, or governor is required to obtain to qualify for placement on the ballot. (13) Requires an individual who registers to vote to provide the last four digits of the individual's Social Security number under certain circumstances. (14) Makes changes in the process for organizing and disbanding of political committees. (15) Corrects an erroneous reference in a statute relating to absentee voting. (16) Changes criteria for determination of the political affiliation of an appointee to a local board. (17) Authorizes the election commission to adopt rules to update standards for voting systems. (18) Allows precinct boundaries to cross a city boundary in certain circumstances. (19) Repeals superceded statutes relating to: (A) registration of absent uniformed services voters and overseas voters; and (B) the counting of absentee ballots at a central location. (This conference committee report adds the provisions relating to furnishing sample ballots, use of noncompliant voting systems, use of voting systems by voters with disabilities, and requirements relating to overvotes alert functions of voting systems. This conference committee report removes the following provisions: (1) Establishing a procedure for a member of a county election board to file a protest

with the state election commission when an election ballot does not comply with certain requirements. (2) Requiring that nominees be listed on a general election ballot in type with uniform capital letters and with uniform space between each name. (3) Authorizing a county election board to establish the number of voters a precinct may contain that permits the precinct to have its polls located at the same location as another precinct. (4) Authorizing the town of Danville to adopt an ordinance changing the date of its municipal elections to coincide with a general election. (5) Authorizing a county to appeal to the department of local government finance for permission to exceed for up to three years the ad valorem property tax levy limits to pay for a new voting system or the expansion or upgrade of an existing voting system. (6) Requiring the attorney general to receive and investigate complaints concerning violations of Indiana election laws. (7) Freezing precinct boundaries from before the federal decennial census until after the adoption of redistricting plans. (8) Requiring that, after November 8, 2011, any local governmental body or office required periodically to establish or revise its districts use the precinct boundaries used in preparing the redistricting plans. (9) Changing certain deadlines for taking certain actions relating to filling candidate vacancies. (10) Allowing the office of census data, whenever a precinct boundary splits a census block, to move precinct boundaries to the next whole census block for the purpose of tabulation before a federal decennial census. (11) The repealer of a provision establishing a board of registration in each county having a population of more than 125,000.)

Effective: July 1, 2002; January 1, 2003.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1101 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Replace the effective dates in SECTIONS 6 through 7 with
- 2 "[EFFECTIVE JANUARY 1, 2003]".
- 3 Replace the effective date in SECTION 10 with "[EFFECTIVE
- 4 JANUARY 1, 2003]".
- 5 Page 5, delete lines 20 through 42.
- 6 Page 6, delete lines 1 through 10.
- 7 Page 7, line 2, after "FOLLOWS" insert "[EFFECTIVE JANUARY
- 8 1, 2003]".
- 9 Page 10, delete lines 24 through 42.
- 10 Delete page 11.
- 11 Page 12, delete lines 1 through 18.
- 12 Page 13, line 19, after "service" insert ", ,".
- 13 Page 13, line 22, delete ", ,".
- 14 Page 20, delete line 42.
- 15 Page 21, delete lines 1 through 26.
- 16 Page 22, delete lines 9 through 42.
- 17 Page 23, delete lines 1 through 29.
- 18 Page 23, line 31, after "FOLLOWS" delete "[JULY 1, 2002]".
- 19 Page 24, delete lines 5 through 42.
- 20 Page 25, delete lines 1 through 3.
- 21 Page 26, between lines 16 and 17, begin a new line double block
- 22 indented and insert:

1 **"(C) Provisional ballots in the number considered necessary**
 2 **by the county election board."**

3 Page 26, between lines 18 and 19, begin a new paragraph and insert:
 4 "SECTION 42. IC 3-11-3-12 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 12. **(a)** The local
 6 ballots delivered to the inspector of each precinct under section 11 of
 7 this chapter shall be placed in a strong and stout paper envelope or bag,
 8 which shall then be tightly closed, fastened securely, and attested by
 9 the initials of the circuit court clerk or the clerk's designee in the
 10 presence of the inspector or the inspector's representative. The
 11 inspector shall sign a receipt for the ballots. The ballot packages may
 12 not be opened until:

13 (1) they have been delivered to the precinct election board to
 14 which they are directed; and

15 (2) the precinct election board is fully organized and ready for the
 16 reception of votes.

17 **(b) The local provisional ballots delivered to the inspector of each**
 18 **precinct under section 11 of this chapter shall be placed in a strong**
 19 **and stout paper envelope or bag, separate from the bag described**
 20 **in subsection (a), which shall then be tightly closed, fastened**
 21 **securely, and attested by the initials of the circuit court clerk or the**
 22 **clerk's designee in the presence of the inspector or the inspector's**
 23 **representative. The inspector shall sign a receipt for the**
 24 **provisional ballots. The provisional ballot packages may not be**
 25 **opened until:**

26 (1) they have been delivered to the precinct election board to
 27 which they are directed; and

28 (2) the precinct election board is fully organized and ready to
 29 receive votes."

30 Page 28, line 1, delete "chapter" and insert "article".

31 Page 32, line 1, delete "an" and insert "**a voter described in**
 32 **subsection (g)**".

33 Page 32, line 2, delete "absent uniformed services voter".

34 Page 34, line 10, delete "IC 3-6-5 or".

35 Page 35, delete lines 18 through 35, begin a new paragraph and
 36 insert:

37 "SECTION 57. IC 3-11-7-17, AS AMENDED BY P.L.176-1999,
 38 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2002]: Sec. 17. (a) The election division (or a competent
 40 person designated by the commission to act on behalf of the election
 41 division) may periodically examine a ballot card voting system that the
 42 commission has previously approved to determine if the system is still
 43 in compliance with all statutory requirements.

44 (b) If the election division or competent person finds that a system
 45 examined under subsection (a) fails to meet all requirements and
 46 standards, and the commission concurs in these findings, the
 47 commission may, by unanimous vote of all of the members of the
 48 commission, rescind the commission's approval of the vendor.

49 (c) If the commission's approval is rescinded under subsection (b),
 50 the commission may, by unanimous vote of all of the members of the
 51 commission:

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to a ballot card voting system approved for its initial certification before:

- (1) March 25, 1992; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(f) This subsection applies to a ballot card voting system that:

- (1) the commission has recommended discontinuing under subsection (c); or
- (2) an independent testing authority has determined under subsection (e) to be out of compliance with this article:

Notwithstanding the recommendation under subsection (c) or the determination under subsection (e), a ballot card voting system may be used in a county until the circuit court clerk or the county election board of a county that uses the ballot card voting system files a request with the election division for an investigation of the ballot card voting system and the commission, by unanimous consent of its entire membership, makes a finding under subsection (g):

(g) The commission finding described under subsection (f) must satisfy both of the following:

- (1) Be based on evidence of the ballot card voting system's use by a county election board;
- (2) Contain the following determinations:
 - (A) The use of the voting system has resulted in a clear pattern of unreliable or erroneous casting or tabulation of ballots;
 - (B) The continued use of the voting system would undermine the public confidence in the accuracy and integrity of Indiana's electoral system.

SECTION 58. IC 3-11-7.5-26, AS AMENDED BY P.L.176-1999, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 26. (a) The election division (or a competent person designated by the commission to act on behalf of the election division) may periodically examine an electronic voting system that the commission has previously approved to determine if that system is still in compliance with all statutory requirements.

(b) If the election division or competent person finds that a system examined under subsection (a) fails to meet all requirements and standards, and the commission concurs in these findings, the commission may, by unanimous vote of all of the members of the

commission, rescind the commission's approval of the vendor.

(c) If the commission's approval is rescinded under subsection (b), the commission may by unanimous vote of all of the members of the commission:

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to an electronic voting system approved for its initial certification before:

- (1) March 25, 1992; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(f) This subsection applies to an electronic voting system that:

- (1) the commission has recommended discontinuing under subsection (c); or
- (2) an independent testing authority has determined under subsection (e) to be out of compliance with this article:

Notwithstanding the recommendation under subsection (c) or the determination under subsection (e), an electronic voting system may be used in a county until the circuit court clerk or the county election board of a county that uses the electronic voting system files a request with the election division for an investigation of the electronic voting system and the commission, by unanimous consent of its entire membership, makes a finding under subsection (g):

(g) The commission finding described under subsection (f) must satisfy both of the following:

- (1) Be based on evidence of the electronic voting system's use by a county election board;
- (2) Contain the following determinations:
 - (A) The use of the voting system has resulted in a clear pattern of unreliable or erroneous casting or tabulation of ballots;
 - (B) The continued use of the voting system would undermine the public confidence in the accuracy and integrity of Indiana's electoral system."

Page 41, line 29, delete "IC 3-6-5 or".

Page 44, between lines 28 and 29, begin a new paragraph and insert:
 "SECTION 75. IC 3-11-15-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2002]: **Sec. 13.5. (a) This section does not apply to the purchase, lease, or lease-purchase of additional or replacement components of a voting system in use in a county**

before January 1, 2005.

(b) The commission shall determine whether a voting system provides a practical and effective means for voters with disabilities to cast ballots in private.

(c) If the commission determines that any voting system meets the criteria described in subsection (b), a county may not purchase, lease, or lease-purchase any other voting system that does not meet the criteria described in subsection (b).

SECTION 76. IC 3-11-15-13.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 13.7. (a) If a voting system has any of the following functions, the functions must be operable in the voting system's equipment actually in use in a precinct:**

(1) The voting system can demonstrate to the voter that the voter has cast votes for too many candidates for an office.

(2) The voting system can demonstrate to the voter that the voter has cast votes both in favor of and in opposition to a public question.

(b) Except as provided in subsection (c), a voting system described in subsection (a) must be able to inform the voter how the voter may correct errors on the voter's ballot.

(c) A voting system is not required to provide the information required by subsection (b) if the information is provided in writing conspicuously on or near the components of the voting system where the voter casts the voter's votes."

Page 49, between lines 27 and 28, begin a new paragraph and insert: "Sec. 6. (a) All provisional ballots other than those described in section 5 of this chapter shall be prepared and printed under the direction of each county election board.

(b) After completing the estimate required by section 4 of this chapter, the county election board shall immediately prepare the ballots and have the ballots printed.

(c) Ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk not later than:

(1) forty-five (45) days before a general, primary, or municipal election; or

(2) thirty-two (32) days before a special election."

Page 49, line 28, delete "6" and insert "7".

Page 49, line 31, delete "7" and insert "8".

Page 49, line 34, delete "8" and insert "9".

Page 53, between lines 22 and 23, begin a new paragraph and insert: "Sec. 6. The valid provisional ballots printed by the election division shall be counted before counting the valid provisional ballots printed by the county election board."

Page 53, line 23, delete "6" and insert "7".

Page 53, line 25, delete "7" and insert "8".

Page 53, line 32, delete "8" and insert "9".

Page 53, line 37, delete "9" and insert "10".

- 1 Page 53, line 38, delete "8" and insert "9".
- 2 Page 53, line 40, delete "10" and insert "11".
- 3 Page 53, line 42, delete "11" and insert "12".
- 4 Page 54, line 4, delete "12" and insert "13".
- 5 Page 54, line 7, delete "13" and insert "14".
- 6 Page 54, line 12, delete "7" and insert "8".
- 7 Page 54, line 13, delete "14" and insert "15".
- 8 Page 54, line 26, delete "15" and insert "16".
- 9 Page 54, line 30, delete "16" and insert "17".
- 10 Page 54, line 36, delete "17" and insert "18".
- 11 Page 54, line 37, delete "15" and insert "16".
- 12 Page 54, line 40, delete "18" and insert "19".
- 13 Page 55, line 17, delete "19" and insert "20".
- 14 Page 55, line 26, delete "20" and insert "21".
- 15 Page 55, line 27, delete "19" and insert "20".
- 16 Page 55, line 28, delete "21" and insert "22".
- 17 Page 55, line 31, delete "22" and insert "23".
- 18 Page 55, line 32, delete "21" and insert "22".
- 19 Page 55, line 38, delete "23" and insert "24".
- 20 Page 55, line 41, delete "24" and insert "25".
- 21 Page 56, line 4, delete "25" and insert "26".
- 22 Page 56, line 8, delete "26" and insert "27".
- 23 Page 56, line 16, delete "27" and insert "28".
- 24 Page 56, line 20, delete "28" and insert "29".
- 25 Page 57, delete lines 17 through 42.
- 26 Delete page 58.
- 27 Page 59, delete lines 1 through 22.
- 28 Page 60, delete lines 3 through 25.
- 29 Page 61, delete lines 11 through 42.
- 30 Delete pages 62 through 73.
- 31 Page 74, delete lines 1 through 35.
- 32 Page 74, delete line 41.
- 33 Renumber all SECTIONS consecutively.
(Reference is to EHB 1101 as reprinted February 27, 2002.)

Conference Committee Report
on
Engrossed House Bill 1101

Signed by:

Representative Weinzapfel
Chairperson

Senator Landske

Representative Richardson

Senator Breaux

House Conferees

Senate Conferees